



2013 SENATE BILL 245

1 **AN ACT to repeal** 49.141 (7) (b), 49.141 (9) (title), 49.141 (10) (title) and (b), 49.49
2 (1) (title) and (a) (intro.), 49.49 (1) (b), 49.49 (2) (title) and (2) (a) (title), 49.49
3 (2) (b) (title), 49.49 (2) (c) (title), 49.49 (3) (title), 49.49 (3m) (title), 49.49 (3m)
4 (b), 49.49 (4) (title), 49.795 (1) (cm), 49.795 (7), 49.795 (8) (a), (b) and (c) and
5 49.95; **to renumber** 49.495 (title) and 49.795 (title) and (1) (intro.); **to**
6 **renumber and amend** 49.141 (7) (a), 49.141 (9) (a) to (c), 49.141 (10) (a), 49.49
7 (1) (a) 1. to 4., 49.49 (1) (c), 49.49 (2) (a), 49.49 (2) (b), 49.49 (2) (c), 49.49 (3), 49.49
8 (3m) (a), 49.495, 49.795 (1) (a), (b), (c), (d) and (e), 49.795 (2) to (6), 49.795 (8)
9 (d) 1., 49.795 (8) (d) 1m., 49.795 (8) (d) 2. and 49.795 (8) (e) and (f); **to**
10 **consolidate, renumber and amend** 49.49 (4) (a) and (b); **to amend** 49.141
11 (7) (c) (intro.) and 1., 49.141 (8), 49.32 (8), 49.45 (2) (b) 7. (intro.) and a., and (11),
12 49.49 (3p) (title), 49.49 (5), 49.49 (7) (d), 49.688 (9) (a), 49.797 (2) (a), 59.54 (23)
13 and 940.11 (2); **to repeal and recreate** 49.141 (7) (title); and **to create** 49.835,
14 49.846 (1), 946.90 (title), 946.90 (1), 946.90 (2), 946.91 (title), (1) and (2) (intro.),

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1 946.92 (3) (a) and 946.93 of the statutes; **relating to:** applications for public
2 assistance programs, offenses in public assistance programs, granting
3 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 49.141 (7) (title) of the statutes is repealed and recreated to read:
5 49.141 (7) (title) SUSPENSIONS.

6 **SECTION 2.** 49.141 (7) (a) of the statutes is renumbered 946.90 (3) and amended
7 to read:

8 946.90 (3) ~~A person who is convicted of violating sub. (6) in connection with the~~
9 Whoever violates sub. (2) by furnishing by that person of items or services for which
10 payment is or may be made under Wisconsin works Works is guilty of a Class H
11 felony.

12 **SECTION 3.** 49.141 (7) (b) of the statutes is repealed.

13 **SECTION 4.** 49.141 (7) (c) (intro.) and 1. of the statutes are amended to read:
14 49.141 (7) (c) (intro.) Except as provided in par. (d), in addition to the penalties
15 applicable under ~~par. (a) or (b) s. 946.90 (2) or (3)~~, a person shall be suspended from
16 participating in Wisconsin works Works for a period of 10 years, beginning on the
17 date of conviction, if the person is convicted in a federal or state court for any of the
18 following:

19 1. Violating sub. (6) (a) or s. 946.90 (2) (a) with respect to his or her identity or
20 place of residence for the purpose of receiving simultaneously from this state and at

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1 least one other state assistance funded by a block grant under Title I of the Federal
2 Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

3 **SECTION 5.** 49.141 (8) of the statutes is amended to read:

4 49.141 (8) DAMAGES. If a person is convicted under ~~sub. (6)~~ s. 946.90 (2) or (3),
5 the state has a cause of action for relief against the person in an amount equal to 3
6 times the amount of actual damages sustained as a result of any excess payments
7 made in connection with the offense for which the conviction was obtained. Proof by
8 the state of a conviction under ~~sub. (6)~~ s. 946.90 (2) or (3) is conclusive proof in a civil
9 action of the state's right to damages and the only issue in controversy shall be the
10 amount, if any, of the actual damages sustained. Actual damages consist of the total
11 amount of excess payments, any part of which is paid with state funds. In a civil
12 action under this subsection, the state may elect to file a motion in expedition of the
13 action. Upon receipt of the motion, the presiding judge shall expedite the action.

14 **SECTION 6.** 49.141 (9) (title) of the statutes is repealed.

15 **SECTION 7.** 49.141 (9) (a) to (c) of the statutes are renumbered 946.90 (4) (a) to
16 (c), and 946.90 (4) (a), (b) and (c) 1., as renumbered, are amended to read:

17 946.90 (4) (a) Whoever solicits or receives ~~any remuneration in cash or in-kind~~
18 money, goods, services, or any other thing of value, in return for referring an
19 individual to a person for the furnishing or arranging for the furnishing of any item
20 or service for which payment may be made in whole or in part under Wisconsin ~~works~~
21 Works, or in return for purchasing, leasing, ordering, or arranging for or
22 recommending purchasing, leasing, or ordering any good, facility, service, or item for
23 which payment may be made in whole or in part under Wisconsin ~~works~~ Works, is
24 guilty of a Class H felony, except that, notwithstanding the maximum fine specified
25 in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

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1 (b) Whoever offers or ~~pays any remuneration in cash or in-kind~~ provides
2 money, goods, services, or any other thing of value to any person to induce the person
3 to refer an individual to a person for the furnishing or arranging for the furnishing
4 of any item or service for which payment may be made in whole or in part under
5 Wisconsin ~~works~~ Works, or to purchase, lease, order, or arrange for or recommend
6 purchasing, leasing, or ordering any good, facility, service or item for which payment
7 may be made in whole or in part under any provision of Wisconsin ~~works~~ Works, is
8 guilty of a Class H felony, except that, notwithstanding the maximum fine specified
9 in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

10 (c) 1. A discount or other reduction in price obtained by a provider of services
11 or other entity under chs. 46 to 51 and 58 if the reduction in price is properly disclosed
12 and appropriately reflected in the costs claimed or charges made by the provider or
13 entity under Wisconsin ~~works~~ Works.

14 **SECTION 8.** 49.141 (10) (title) and (b) of the statutes are repealed.

15 **SECTION 9.** 49.141 (10) (a) of the statutes is renumbered 946.90 (5) and
16 amended to read:

17 946.90 (5) A provider ~~may not who~~ knowingly ~~impose~~ imposes upon a recipient
18 participant in Wisconsin Works charges in addition to payments received by the
19 provider for services under Wisconsin ~~works~~ Works or knowingly ~~impose~~ imposes
20 direct charges upon a recipient participant in Wisconsin Works in lieu of obtaining
21 payment under Wisconsin ~~works~~ Works unless Works is guilty of a Class H felony, except
22 that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may
23 be fined not more than \$25,000. This subsection does not apply if benefits or services
24 are not provided under Wisconsin ~~works~~ Works and the recipient Wisconsin Works
25 participant is advised of this fact prior to receiving the service.

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1 **SECTION 10.** 49.32 (8) of the statutes is amended to read:

2 49.32 (8) PERIODIC EARNINGS CHECK BY DEPARTMENT. The department shall make
3 a periodic check of the amounts earned by recipients of aid to families with dependent
4 children under s. 49.19 and by participants under Wisconsin works under ss. 49.141
5 to 49.161 through a check of the amounts credited to the recipient's social security
6 number. The department shall make an investigation into any discrepancy between
7 the amounts credited to a social security number and amounts reported as income
8 on the declaration application and take appropriate action under s. ~~49.95~~ 946.93
9 when warranted. The department shall use the state wage reporting system under
10 1985 Wisconsin Act 17, section 65 (1), when the system is implemented, to make
11 periodic earnings checks.

12 **SECTION 11.** 49.45 (2) (b) 7. (intro.) and a., and (11) of the statutes are amended
13 to read:

14 49.45 (2) (b) 7. (intro.) Require, as a condition of certification under par. (a) 11.,
15 all providers of a specific service that is among those enumerated under s. 49.46 (2),
16 49.47 (6) (a), or 49.471 (11), as specified in this subdivision, to file with the
17 department a surety bond issued by a surety company licensed to do business in this
18 state. Providers subject to this subdivision provide those services specified under s.
19 49.46 (2), 49.47 (6) (a), or 49.471 (11) for which providers have demonstrated
20 significant potential to violate s. ~~49.49 (1) (a), (2) (a) or (b), (3), (3m) (a), (3p), (4) (a),~~
21 ~~or (4m) (a) or~~ 946.91 (2), (3) (a) or (b), (4), (5), or (6), to require recovery under par.
22 (a) 10., or to need additional sanctions under par. (a) 13. The surety bond shall be
23 payable to the department in an amount that the department determines is
24 reasonable in view of amounts of former recoveries against providers of the specific

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1 service and the department's costs to pursue those recoveries. The department shall
2 promulgate rules to implement this subdivision that specify all of the following:

3 a. Services under ~~medical assistance~~ Medical Assistance for which providers
4 have demonstrated significant potential to violate s. 49.49 (1) (a), ~~(2) (a) or (b), (3),~~
5 ~~(3m) (a), (3p), (4) (a), or (4m) (a)~~ or 946.91 (2), (3) (a) or (b), (4), (5), or (6), to require
6 recovery under par. (a) 10., or to need additional sanctions under par. (a) 13.

7 (11) PENALTY. Any person who receives or assists another in receiving
8 assistance under this section, to which the recipient is not entitled, shall be subject
9 to the penalties under ~~s. 49.95~~ ss. 946.91 and 946.93.

10 **SECTION 12.** 49.49 (1) (title) and (a) (intro.) of the statutes are repealed.

11 **SECTION 13.** 49.49 (1) (a) 1. to 4. of the statutes are renumbered 946.91 (2) (a)
12 to (d) and amended to read:

13 946.91 (2) (a) ~~Knowingly and willfully make~~ Intentionally makes or cause
14 causes to be made any false statement or representation of a material fact in any
15 application for any Medical Assistance benefit or payment.

16 (b) ~~Knowingly and willfully make~~ Intentionally makes or cause causes to be
17 made any false statement or representation of a material fact for use in determining
18 ~~rights to such~~ eligibility for any Medical Assistance benefit or payment.

19 (c) Having knowledge of the occurrence of any event affecting the initial or
20 continued ~~right to~~ eligibility for any such Medical Assistance benefit or payment or
21 the initial or continued ~~right to~~ eligibility for any such benefit or payment of any
22 other individual in whose behalf he or she has applied for or is receiving such benefit
23 or payment, ~~conceal~~ conceals or ~~fail~~ fails to disclose such event with an intent to
24 fraudulently ~~to~~ secure such benefit or payment either in a greater amount or
25 quantity than is due or when no such benefit or payment is authorized.

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1 (d) Having made application applied to receive any such Medical Assistance
2 benefit or payment for the use and benefit of another and having received it,
3 knowingly and willfully ~~convert such~~ converts the benefit or payment or any part
4 thereof to a use ~~other than for the use and~~ that is not for the benefit of such other
5 person.

6 **SECTION 14.** 49.49 (1) (b) of the statutes is repealed.

7 **SECTION 15.** 49.49 (1) (c) of the statutes is renumbered 49.49 (1d) and amended
8 to read:

9 49.49 (1d) DAMAGES. If any person is convicted under ~~this subsection~~ s. 946.91
10 (2), the state shall have a cause of action for relief against such person in an amount
11 3 times the amount of actual damages sustained as a result of any excess payments
12 made in connection with the offense for which the conviction was obtained. Proof by
13 the state of a conviction under ~~this section~~ s. 946.91 (2) in a civil action shall be
14 conclusive regarding the state's right to damages and the only issue in controversy
15 shall be the amount, if any, of the actual damages sustained. Actual damages shall
16 consist of the total amount of excess payments, any part of which is paid by state
17 funds. In any such civil action the state may elect to file a motion in expedition of
18 the action. Upon receipt of the motion, the presiding judge shall expedite the action.

19 **SECTION 16.** 49.49 (2) (title) and (2) (a) (title) of the statutes are repealed.

20 **SECTION 17.** 49.49 (2) (a) of the statutes is renumbered 946.91 (3) (a) and
21 amended to read:

22 946.91 (3) (a) ~~Any person who~~ Whoever solicits or receives any remuneration,
23 including any kickback, bribe, or rebate, directly or, indirectly, overtly, or covertly, in
24 cash or in kind, money, goods, services, or any other thing of value in return for
25 referring an individual to a person for the furnishing or arranging for the furnishing

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1 of any item or service for which payment may be made in whole or in part under ~~a~~
2 ~~medical assistance program~~ Medical Assistance, or in return for purchasing, leasing,
3 ordering, or arranging for or recommending purchasing, leasing, or ordering any
4 good, facility, service, or item for which payment may be made in whole or in part
5 under ~~a medical assistance program~~ Medical Assistance, is guilty of a Class H felony,
6 except that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the
7 person may be fined not more than \$25,000.

8 **SECTION 18.** 49.49 (2) (b) (title) of the statutes is repealed.

9 **SECTION 19.** 49.49 (2) (b) of the statutes is renumbered 946.91 (3) (b) and
10 amended to read:

11 946.91 (3) (b) Whoever offers or pays ~~any remuneration including any~~
12 ~~kickback, bribe, or rebate~~ provides, directly ~~or~~, indirectly, overtly, or covertly, ~~in cash~~
13 ~~or in kind~~ money, goods, services, or any other thing of value to any person to induce
14 such person to refer an individual to a person for the furnishing or arranging for the
15 furnishing of any item or service for which payment may be made in whole or in part
16 under ~~a medical assistance program~~ Medical Assistance, or to purchase, lease, order,
17 or arrange for or recommend purchasing, leasing, or ordering any good, facility,
18 service or item for which payment may be made in whole or in part under ~~a medical~~
19 ~~assistance program~~ Medical Assistance, is guilty of a Class H felony, except that,
20 notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be
21 fined not more than \$25,000.

22 **SECTION 20.** 49.49 (2) (c) (title) of the statutes is repealed.

23 **SECTION 21.** 49.49 (2) (c) of the statutes is renumbered 946.91 (3) (c) and
24 amended to read:

25 946.91 (3) (c) This subsection ~~shall~~ does not apply to any of the following:

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1 1. A discount or other reduction in price obtained by a provider of services or
2 other entity under chs. 46 to 51 and 58 if the reduction in price is properly disclosed
3 and appropriately reflected in the costs claimed or charges made by the provider or
4 entity under ~~a medical assistance program~~ Medical Assistance.

5 2. ~~Any~~ An amount paid by an employer to an employee who has a bona fide
6 employment relationship with such employer for employment in the provision of
7 covered items or services.

8 **SECTION 22.** 49.49 (3) (title) of the statutes is repealed.

9 **SECTION 23.** 49.49 (3) of the statutes is renumbered 946.91 (4) and amended
10 to read:

11 946.91 (4) ~~No person may~~ Whoever knowingly and willfully ~~make~~ makes or
12 ~~cause~~ causes to be made, or ~~induce~~ induces or ~~seek~~ seeks to induce the making of, any
13 false statement or representation of a material fact with respect to the conditions or
14 operation of any institution or facility in order that such institution or facility may
15 qualify either upon initial certification or upon recertification as a hospital, skilled
16 nursing facility, intermediate care facility, or home health agency. ~~A person who~~
17 ~~violates this subsection~~ is guilty of a Class H felony, except that, notwithstanding the
18 maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than
19 \$25,000.

20 **SECTION 24.** 49.49 (3m) (title) of the statutes is repealed.

21 **SECTION 25.** 49.49 (3m) (a) of the statutes is renumbered 946.91 (5), and 946.91
22 (5) (intro.), (a), (b) and (c), as renumbered, are amended to read:

23 946.91 (5) (intro.) ~~No provider may~~ Whoever knowingly ~~impose~~ imposes upon
24 a Medical Assistance recipient charges in addition to payments received for services
25 under ss. 49.45 to 49.471 or knowingly ~~impose~~ imposes direct charges upon a

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1 recipient in lieu of obtaining payment under ss. 49.45 to 49.471 ~~except under the~~
2 ~~following conditions is guilty of a Class H felony, except that, notwithstanding the~~
3 ~~maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than~~
4 ~~\$25,000. This subsection does not apply under any of the following circumstances:~~

5 (a) Benefits or services are not provided under s. 49.46 (2) or 49.471 (11) and
6 the Medical Assistance recipient is advised of this fact prior to receiving the service.

7 (b) ~~If an~~ An applicant is determined to be eligible retroactively under s. 49.46
8 (1) (b), 49.47 (4) (d), or 49.471 ~~and~~, a provider bills the applicant directly for services
9 and benefits rendered during the retroactive period, the provider shall, upon
10 notification of the applicant's retroactive eligibility, ~~submit claims~~ submits a claim
11 for payment under s. 49.45 for covered services or benefits rendered to the recipient
12 during the retroactive period. ~~Upon receipt of payment under s. 49.45, the provider~~
13 ~~shall reimburse, and the provider reimburses~~ the recipient or other person who has
14 made prior payment to the provider for services provided to the recipient during the
15 retroactive eligibility period, by the amount of the prior payment made upon receipt
16 of payment under s. 49.45.

17 (c) Benefits or services are provided for which recipient copayment,
18 coinsurance, or deductible is required under s. 49.45 (18), not to exceed maximum
19 amounts allowable under 42 CFR 447.53 to 447.58, or for which recipient copayment
20 or coinsurance is required under s. 49.471 (11).

21 **SECTION 26.** 49.49 (3m) (b) of the statutes is repealed.

22 **SECTION 27.** 49.49 (3p) (title) of the statutes is amended to read:

23 49.49 (3p) (title) OTHER PROHIBITED PROVIDER CHARGES.

24 **SECTION 28.** 49.49 (4) (title) of the statutes is repealed.

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1 **SECTION 29.** 49.49 (4) (a) and (b) of the statutes are consolidated, renumbered
2 946.91 (6) and amended to read:

3 946.91 (6) ~~No person~~ Whoever, in connection with the ~~medical assistance~~
4 ~~program~~ Medical Assistance when the cost of the services provided to the patient is
5 paid for in whole or in part by the state, ~~may knowingly and willfully charge, solicit,~~
6 ~~accept or receive~~ intentionally charges, solicits, accepts, or receives, in addition to
7 any amount otherwise required to be paid under ~~a medical assistance program~~
8 Medical Assistance, any gift, money, donation, or other consideration, other than a
9 charitable, religious, or philanthropic contribution from an organization or from a
10 person unrelated to the patient, as a precondition of admitting a patient to a hospital,
11 skilled nursing facility, or intermediate care facility, or as a requirement for the
12 patient's continued stay in such a facility. ~~(b) A person who violates this subsection~~
13 is guilty of a Class H felony, except that, notwithstanding the maximum fine specified
14 in s. 939.50 (3) (h), the person may be fined not more than \$25,000.

15 **SECTION 30.** 49.49 (5) of the statutes is amended to read:

16 49.49 (5) COUNTY COLLECTION. Any county may retain ~~15%~~ 15 percent of state
17 ~~medical assistance~~ Medical Assistance funds that are recovered due to the efforts of
18 a county employee or officer or, if the county initiates action by the department of
19 justice, due to the efforts of the department of justice under s. ~~49.495~~ 49.846. This
20 subsection applies only to recovery of medical assistance that was provided as a
21 result of fraudulent activity by a recipient or by a provider.

22 **SECTION 31.** 49.49 (7) (d) of the statutes is amended to read:

23 49.49 (7) (d) A commission's imposition of an assessment described under par.
24 (b), a member's payment of the assessment as described under par. (c), and
25 acceptance of the payment by the commission do not constitute conduct prohibited

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1 under sub. (4) s. 946.91 (6) or prohibited under s. DHS 106.04 (3), Wis. Adm. Code,
2 in effect on May 26, 2010. It is the intent of the legislature to create a mechanism
3 whereby 2 or more political subdivisions may share in the operation, use, and
4 funding of a nursing home or intermediate care facility without violating 42 USC
5 1320a-7b (d) or 42 USC 1396a (a) (25) (C).

6 **SECTION 32.** 49.495 (title) of the statutes is renumbered 49.846 (title).

7 **SECTION 33.** 49.495 of the statutes is renumbered 49.846 (2) and amended to
8 read:

9 49.846 (2) The department of justice or the district attorney may institute,
10 manage, control, and direct, in the proper county, any prosecution for violation of
11 criminal laws affecting ~~the medical~~ a public assistance program, including ~~but not~~
12 ~~limited to laws in this chapter, chs. 939 to 951~~ relating to medical assistance
13 ~~contained in this subchapter~~ Medical Assistance, Wisconsin Works, the food stamp
14 program, or any other public assistance program, and laws affecting the health,
15 safety, and welfare of public assistance program recipients ~~of medical assistance~~. For
16 this purpose the department of justice shall have and exercise all powers conferred
17 upon district attorneys in such cases. ~~The~~ If a prosecution under this section involves
18 a person holding a license granted by the medical examining board or an interested
19 affiliated credentialing board, the department of justice or district attorney shall
20 notify the medical examining board or the interested affiliated credentialing board
21 of any such ~~the~~ prosecution of a person holding a license granted by the board or
22 affiliated credentialing board.

23 **SECTION 34.** 49.688 (9) (a) of the statutes is amended to read:

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1 49.688 (9) (a) The department shall promulgate rules relating to prohibitions
2 on fraud that are substantially similar to applicable provisions under s. 49.49 (1) (a)
3 946.91 (2).

4 **SECTION 35.** 49.795 (title) and (1) (intro.) of the statutes are renumbered 946.92
5 (title) and (1) (intro.).

6 **SECTION 36.** 49.795 (1) (a), (b), (c), (d) and (e) of the statutes are renumbered
7 946.92 (1) (a), (b), (c), (d) and (e), and 946.92 (1) (b), (c) and (d), as renumbered, are
8 amended to read:

9 946.92 (1) (b) “Food” means items ~~which~~ that may be purchased using food
10 ~~coupons~~ stamp program benefits under 7 USC 2012 (g) and 2016 (b).

11 (c) “Food stamp program” means the federal food stamp program under 7 USC
12 2011 to ~~2029~~ 2036a.

13 (d) “Supplier” means a retail grocery store or other person authorized by the
14 federal department of agriculture to accept food ~~coupons~~ stamp program benefits in
15 exchange for food under the food stamp program.

16 **SECTION 37.** 49.795 (1) (cm) of the statutes is repealed.

17 **SECTION 38.** 49.795 (2) to (6) of the statutes are renumbered 946.92 (2) (a) to
18 (f), and 946.92 (2) (c), (d), (e) and (f), as renumbered, are amended to read:

19 946.92 (2) (c) No person may knowingly issue food ~~coupons~~ stamp program
20 benefits to a person who is not an eligible person or knowingly issue food ~~coupons~~
21 stamp program benefits to an eligible person in excess of the amount for which the
22 person’s household is eligible.

23 (d) No eligible person may knowingly transfer food ~~coupons~~ stamp program
24 benefits except to purchase food from a supplier or knowingly obtain or use food
25 ~~coupons~~ stamp program benefits for which the person’s household is not eligible.

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1 (e) No supplier may knowingly obtain food ~~coupons~~ stamp program benefits
2 except as payment for food or knowingly obtain food ~~coupons~~ stamp program benefits
3 from a person who is not an eligible person.

4 (f) No unauthorized person may knowingly obtain, possess, transfer, or use food
5 ~~coupons~~ stamp program benefits.

6 **SECTION 39.** 49.795 (7) of the statutes is repealed.

7 **SECTION 40.** 49.795 (8) (a), (b) and (c) of the statutes are repealed.

8 **SECTION 41.** 49.795 (8) (d) 1. of the statutes is renumbered 946.92 (3) (b) and
9 amended to read:

10 946.92 (3) (b) In addition to the penalties applicable under par. (a), ~~(b) or (c)~~,
11 the court shall suspend a person who violates ~~this section~~ sub. (2) from participation
12 in the food stamp program as follows:

13 1. For a first ~~offense~~ conviction under this section, for not less than one year.
14 ~~The court may extend the suspension by~~ and not more than ~~18 months~~ 2 years and
15 6 months.

16 2. For a 2nd ~~offense~~ conviction under this section, for not less than 2 years. ~~The~~
17 ~~court may extend the suspension by~~ and not more than ~~18 months~~ 3 years and 6
18 months.

19 3. For a 3rd ~~offense~~ conviction under this section, permanently.

20 **SECTION 42.** 49.795 (8) (d) 1m. of the statutes is renumbered 946.92 (3) (c) and
21 amended to read:

22 946.92 (3) (c) In addition to the penalties applicable under par. (a), ~~(b) or (c)~~,
23 a court shall permanently suspend from the food stamp program a person who has
24 been convicted of an offense under 7 USC 2024 (b) or (c) involving an item covered
25 by 7 USC 2024 (b) or (c) having a value of \$500 or more.

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1 **SECTION 43.** 49.795 (8) (d) 2. of the statutes is renumbered 49.796 and amended
2 to read:

3 **49.796 Food stamp reinstatement.** The A person may apply to the a
4 multicounty consortium, as defined in s. 49.78 (1) (br), or the a federally recognized
5 American Indian tribal governing body or, if the person is a supplier, as defined in
6 s. 946.92 (1) (d), to the federal department of agriculture for reinstatement of benefits
7 following the a period of suspension imposed under s. 946.92, if the suspension is not
8 permanent.

9 **SECTION 44.** 49.795 (8) (e) and (f) of the statutes are renumbered 946.92 (3) (d)
10 and (e) and amended to read:

11 946.92 (3) (d) 1. If ~~a court finds that~~ a person ~~traded~~ violated sub. (2) by trading
12 a controlled substance, as defined in s. 961.01 (4), for food ~~coupons~~ stamp program
13 benefits, the court shall suspend the person from participation in the food stamp
14 program as follows:

15 a. Upon ~~the first such finding~~ a first conviction, for 2 years.

16 b. Upon ~~the a 2nd such finding~~ conviction, permanently.

17 2. If ~~a court finds that~~ a person ~~traded~~ violated sub. (2) by trading firearms,
18 ammunition, or explosives for food ~~coupons~~ stamp program benefits, the court shall
19 suspend the person permanently from participation in the food stamp program.

20 (e) Notwithstanding ~~par. (d)~~ pars. (b) and (c), in addition to the penalties
21 applicable under par. (a), ~~(b) or (c),~~ the court shall suspend from the food stamp
22 program for a period of 10 years a person who violates sub. (2) by fraudulently
23 ~~misstates~~ misstating or ~~misrepresents~~ misrepresenting his or her identity or place
24 of residence for the purpose of receiving multiple benefits simultaneously under the
25 food stamp program.

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1 **SECTION 45.** 49.797 (2) (a) of the statutes is amended to read:

2 49.797 (2) (a) Notwithstanding s. 46.028 and except as provided in par. (b) and
3 sub. (8), the department shall administer a statewide program to deliver food stamp
4 benefits to recipients of food stamp benefits by an electronic benefit transfer system.
5 All suppliers, as defined in s. ~~49.795~~ 946.92 (1) (d), may participate in the delivery
6 of food stamp benefits under the electronic benefit transfer system. The department
7 shall explore methods by which nontraditional retailers, such as farmers' markets,
8 may participate in the delivery of food stamp benefits under the electronic benefit
9 transfer system.

10 **SECTION 46.** 49.835 of the statutes is created to read:

11 **49.835 Statements in applications.** A person who makes a statement in a
12 written application for any aid or benefit provided under this chapter is considered
13 to have made an admission as to the existence, correctness, or validity of any fact
14 stated. Such a statement is prima facie evidence against the person who made it in
15 any complaint, information, or indictment, or in any action brought for enforcement
16 of any provision of this chapter.

17 **SECTION 47.** 49.846 (1) of the statutes is created to read:

18 49.846 (1) In this section, “public assistance program” means any program
19 administered by the department of health services or the department of children and
20 families under this chapter under which the department administering the program
21 provides services, benefits, or other assistance to individuals or families.

22 **SECTION 48.** 49.95 of the statutes is repealed.

23 **SECTION 49.** 59.54 (23) of the statutes is amended to read:

24 59.54 (23) **PUBLIC ASSISTANCE; FALSE REPRESENTATION.** The board may enact and
25 enforce an ordinance to prohibit conduct that is the same as or similar to conduct that

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1 is prohibited by s. ~~49.95 (1)~~ 946.93 (2) and provide a forfeiture for a violation of the
2 ordinance.

3 **SECTION 50.** 940.11 (2) of the statutes is amended to read:

4 940.11 (2) Whoever hides or buries a corpse, with intent to conceal a crime or
5 avoid apprehension, prosecution, or conviction for a crime or notwithstanding s.
6 ~~49.141 (7), 49.49 (1), or 49.795~~ 946.90 (2) or (3), 946.91 (2), 946.92, or 946.93 (2) or
7 (3) with intent to collect benefits under ~~one of those sections~~ the assistance program
8 for families with dependent children administered under ss. 49.141 to 49.161, the
9 Medical Assistance program administered under subch. IV of ch. 49, or the food
10 stamp program, as defined in s. 49.79 (1) (c), is guilty of a Class G felony.

11 **SECTION 51.** 946.90 (title) of the statutes is created to read:

12 **946.90 (title) Wisconsin Works fraud.**

13 **SECTION 52.** 946.90 (1) of the statutes is created to read:

14 946.90 (1) In this section:

15 (a) “Provider” means a Wisconsin Works agency, a person that contracts with
16 a Wisconsin Works agency to provide services to a participant in Wisconsin Works,
17 or a person that provides child care for reimbursement under s. 49.155.

18 (b) “Wisconsin Works” means the assistance program for families with
19 dependent children administered under ss. 49.141 to 49.161.

20 (c) “Wisconsin Works agency” has the meaning given in s. 49.001 (9).

21 **SECTION 53.** 946.90 (2) of the statutes is created to read:

22 946.90 (2) Whoever does any of the following is guilty of a Class A
23 misdemeanor:

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1 (a) Intentionally makes or causes to be made any false statement or
2 representation of a material fact in any application for or receipt of any Wisconsin
3 Works benefit or payment.

4 (b) Having knowledge of the occurrence of any event affecting the initial or
5 continued eligibility for a Wisconsin Works benefit or payment under Wisconsin
6 Works, conceals or fails to disclose that event with an intent to fraudulently secure
7 a Wisconsin Works benefit or payment either in a greater amount or quantity than
8 is due or when no such benefit or payment is authorized.

9 **SECTION 54.** 946.91 (title), (1) and (2) (intro.) of the statutes are created to read:

10 **946.91 (title) Medical Assistance fraud. (1)** In this section:

11 (a) “Facility” means a nursing home or a community-based residential facility
12 that is licensed under s. 50.03 and that is certified by the department of health
13 services as a provider of aid under Medical Assistance.

14 (b) “Medical Assistance” means the program providing aid under subch. IV of
15 ch. 49, except ss. 49.468 and 49.471.

16 (c) “Provider” means a person, corporation, limited liability company,
17 partnership, incorporated business, or professional association, and any agent or
18 employee thereof, who provides services under Medical Assistance.

19 **(2)** (intro.) Whoever does any of the following is guilty of a Class H felony, except
20 that, notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may
21 be fined not more than \$25,000:

22 **SECTION 55.** 946.92 (3) (a) of the statutes is created to read:

23 946.92 **(3)** (a) Whoever violates sub. (2) is subject to the following penalties:

24 1. If the value of the food stamp program benefits does not exceed \$100, a Class
25 B misdemeanor.

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1 2. Except as provided in subd. 3., if the value of the food stamp program benefits
2 exceeds \$100, but is less than \$5,000, a Class I felony.

3 3. If the value of the food stamp program benefits exceeds \$100, but is less than
4 \$5,000, and the person has a prior conviction under this section, a Class H felony.

5 4. If the value of the food stamp program benefits is \$5,000 or more, a Class G
6 felony.

7 **SECTION 56.** 946.93 of the statutes is created to read:

8 **946.93 Public assistance fraud.** (1) In this section, “public assistance”
9 means any aid, benefit, or services provided under ch. 49.

10 (2) Whoever intentionally makes or causes to be made any false statement or
11 representation of material fact in any application for or receipt of public assistance
12 is guilty of a Class A misdemeanor.

13 (3) No person may do any of the following:

14 (a) Having knowledge of an event affecting the initial or continued eligibility
15 for public assistance, conceal or fail to disclose that event with an intent to
16 fraudulently secure public assistance, including payment either in a greater amount
17 or quantity than is due or when no such benefit or payment is authorized.

18 (b) Receive any income or assets and fail to notify the public assistance agency
19 within 10 days after receiving the income or assets, unless a different time period is
20 required under the applicable public assistance program.

21 (c) Fail to notify the public assistance agency within 10 days of any change in
22 circumstances for which notification by the recipient must be provided under law,
23 unless a different time period is required under the applicable public assistance
24 program.

SENATE BILL 245**SECTION 56**

1 (d) Receive a voucher under a public assistance program for goods or services
2 and use the funding granted under the voucher for purposes that are not authorized
3 by the public assistance agency.

4 (e) Whoever violates par. (a), (b), (c), or (d) is subject to the following penalties:

5 1. If the value of the payment or benefit does not exceed \$300, a Class B
6 forfeiture.

7 2. If the value of the payment or benefit is more than \$300 but does not exceed
8 \$1,000, a Class B misdemeanor.

9 3. If the value of the payment or benefit is more than \$1,000 but does not exceed
10 \$2,000, a Class A misdemeanor.

11 4. If the value of the payment or benefit is more than \$2,000 but does not exceed
12 \$5,000, a Class I felony.

13 5. If the value of the payment or benefit is more than \$5,000 but does not exceed
14 \$10,000, a Class H felony.

15 6. If the value of the payment or benefit is more than \$10,000, a Class G felony.

16 (4) A person who obtains money, goods, services, or any other thing of value
17 because he or she sends or brings a person to a county department, federally
18 recognized American Indian tribe or band, multicounty consortium, or Wisconsin
19 Works agency for the purpose of obtaining public assistance is guilty of a Class C
20 misdemeanor.

21 (5) (a) Whoever solicits or receives money, goods, services, or any other thing
22 of value in return for referring an individual to a person for the furnishing or
23 arranging for the furnishing of any item or service for which a public assistance
24 payment may be made in whole or in part, or in return for purchasing, leasing,
25 ordering, or arranging for or recommending purchasing, leasing, or ordering any

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1 good, facility, service, or item for which public assistance payment may be made in
2 whole or in part, is guilty of a Class H felony, except that, notwithstanding the
3 maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than
4 \$25,000.

5 (b) Whoever offers or provides money, goods, services, or any other thing of
6 value to any person to induce the person to refer an individual to a person for the
7 furnishing or arranging for the furnishing of any item or service for which public
8 assistance payment may be made in whole or in part, or to purchase, lease, order, or
9 arrange for or recommend purchasing, leasing, or ordering any good, facility, service,
10 or item for which public assistance payment may be made in whole or in part, is guilty
11 of a Class H felony, except that, notwithstanding the maximum fine specified in s.
12 939.50 (3) (h), the person may be fined not more than \$25,000.

13 (c) This subsection does not apply to any of the following:

14 1. A discount or other reduction in price obtained by a provider of services or
15 other entity under chs. 46 to 51 and 58 if the reduction in price is properly disclosed
16 and appropriately reflected in the costs claimed or charges made by the provider or
17 entity under a public assistance program.

18 2. An amount paid by an employer to an employee who has a bona fide
19 employment relationship with the employer for employment in the provision of
20 covered items or services.

21 (6) Whoever makes any statement in a written application for public
22 assistance is considered to have made an admission as to the existence, correctness,
23 or validity of any fact stated. Such a statement is prima facie evidence against the
24 person who made it in any complaint, information, or indictment, or in any action
25 brought for enforcement of any provision of this section or ch. 49.

